

STATE OF VERMONT
PUBLIC SERVICE BOARD

Docket No. 7647

Petition of Penn Energy Trust, LLC, for a certificate of)
public good, pursuant to 30 V.S.A. § 248, authorizing the)
installation and operation of a 2.2 MW solar electric)
generation facility located at the southeast corner of the)
intersection of Route 103 and Route 7 in Clarendon,)
Vermont)

Order entered: 8/18/2011

ORDER RE SCHEDULE

On May 3, 2010, Penn Energy Trust, LLC ("Penn Energy"), filed a petition with the Public Service Board ("Board") requesting a certificate of public good ("CPG") under 30 V.S.A. § 248 to install and operate a 2.2 MW solar electric generation facility located at the southeast corner of the intersection of Route 103 and Route 7 in Clarendon, Vermont.

On August 27, 2010, I held a prehearing conference in this Docket. At the prehearing conference, Penn Energy stated that it did not want to schedule formal proceedings at the time and that it would work with State agencies and adjoining landowners in an informal process. In addition, Penn Energy stated that it was third on the standard-offer program's waiting list and anticipated securing a standard-offer contract.¹ On September 2, 2010, I issued a Prehearing Conference and Scheduling Order which allowed the parties to forgo the adoption of a formal schedule and, instead, file a joint status report on or before November 15, 2010.

On December 3, 2010, Penn Energy filed a status report, which was previously circulated to the parties, with the Board. The status report stated that Penn Energy was still on the waiting list for the solar standard-offer queue and requested that Penn Energy's petition continue to

1. For more information about the standard-offer program, visit the VermontSPEED website at <http://vermontspeed.com>.

remain "'on hold' until the earlier of May 30, 2011, the date the Board will revisit the technology caps, or until . . . [Penn Energy] receives a standard-offer contract." All the parties consented to Penn Energy's request. On December 14, 2010, the Clerk of the Board issued a memorandum granting Penn Energy's request to allow its petition to remain "on hold" until May 30, 2011, at which time Penn Energy and the parties were requested to file an updated joint status report.

On June 8, 2011, Penn Energy sent an e-mail to the Clerk of the Board stating that Penn Energy received a standard-offer contract on May 30, 2011, and wished to continue pursuing its petition for a CPG.

On June 30, 2011, I held a telephone conference with the parties to discuss adopting a formal schedule for this Docket. During the telephone conference, Penn Energy stated that it would be filing additional information to support its petition regarding the overall project description and several Section 248 criteria and the parties developed the schedule below, which I adopted in an Order issued July 8, 2011:

July 26, 2011	Site Visit and Public Hearing
August 2, 2011	Deadline for Motions to Intervene
August 9, 2011	Responses to Motions to Intervene
August 9, 2011	Initial Discovery Served on Penn Energy
August 23, 2011	Responses to Initial Discovery
August 30, 2011	Second Round Discovery Served on Penn Energy (if any)
September 6, 2011	Responses to Second Round Discovery
September 27, 2011	Parties file Stipulation, if any, OR Penn Energy files a Status Report with a proposed or stipulated schedule for the remainder of the proceeding.
October 13, 2011	Tentative Technical Hearing (if stipulation is filed)

On July 26, 2011, a site visit and a public hearing were held in Clarendon, Vermont.

On July 28, 2011, I held a telephone conference with the parties to discuss adopting a revised schedule for this Docket based on timing concerns raised during the site visit. During the telephone conference, the parties agreed to the following revised schedule, which I adopted in an Order issued August 1, 2011:

August 2, 2011	Deadline for Motions to Intervene
August 9, 2011	Responses to Motions to Intervene ²
August 30, 2011	New and Supplemental Testimony Filed by Penn Energy
September 13, 2011	Initial Discovery Served on Penn Energy
September 27, 2011	Responses to Initial Discovery
October 11, 2011	Second Round Discovery Served on Penn Energy (if any)
October 25, 2011	Responses to Second Round Discovery
November 11, 2011	Parties file Stipulation, if any, OR Penn Energy files a Status Report with a proposed or stipulated schedule for the remainder of the proceeding.
December 9, 2011	Tentative Technical Hearing (if stipulation is filed)

On August 11, 2011, the Hearing Officer issued an Order granting Central Vermont Public Service Corporation's ("CVPS") July 29, 2011, motion seeking intervention in this docket.

On August 11, 2011, Penn Energy filed a letter via e-mail, to be followed by a hard copy, requesting that "its formal schedule under this docket be postponed until after the Board makes its ruling as to whether" its project capacity will be measured as 2.2 MW using direct current ("DC") or alternating current ("AC"). Penn Energy cited the Vermont Sustainably Priced Energy Development Program ("SPEED") Facilitator's letter of July 29, 2011, filed with the Board, raising an issue regarding the method of determining the capacity of a standard-offer project. Penn Energy stated that it had "based all of its preparations . . . on the fact that it was limited to 2.2 MW DC." Penn Energy also stated that its "project capacity may very well increase up to 18% or more" based on the Board's decision regarding DC versus AC capacity and stated that this potential increase could materially impact CVPS's interconnection study for the project and the project's layout and potential for impacting wetlands and agricultural soils on the project site.

In the absence of a revised scheduling order, Penn Energy would be required to file new and supplemental testimony by August 30, 2011. The filing date was established so that Penn

2. If intervention motions are filed prior to the August 9 Deadline for Motions to Intervene, the parties shall have seven calendar days to file a response to any such motions.

Energy could remedy deficiencies in its petition, highlighted by the parties at the 2010 prehearing conference, the site visit, and the two telephone conferences held in this docket, and update its petition based on design changes presented at the site visit. As Penn Energy noted in its August 11 letter, the Board will be issuing a decision regarding whether DC or AC capacity calculations are to be used for the standard-offer projects. Considering that reply comments regarding the SPEED Facilitator's July 29 letter are not due until September 2, 2011, the Board will clearly not issue a decision on this topic before Penn Energy's August 30 filing deadline.

Therefore, based on Penn Energy's request, the aforementioned filing deadline, and the potential of the forthcoming Board decision to materially impact the Project, I dispense with the formal schedule previously adopted in this docket. I will permit Penn Energy's petition to remain on hold until October 17, 2011, at which time, Penn Energy shall file a status report and, if appropriate, a proposed schedule agreed to by the parties. Any proposed schedule must include a deadline for the submission of new and supplemental testimony and exhibits by Penn Energy, and, if appropriate, new proposed dates for a site visit, public hearing, and a deadline for motions to intervene. Please note that Penn Energy may propose a revised schedule at any time before October 17, 2011.

SO ORDERED.

Dated at Montpelier, Vermont, this 18th day of August, 2011.

s/Bridgette Remington
Bridgette Remington, Esq.
Hearing Officer

OFFICE OF THE CLERK

FILED: August 18, 2011

ATTEST: s/Susan M. Hudson
Clerk of the Board

NOTICE TO READERS: This decision is subject to revision of technical errors. Readers are requested to notify the Clerk of the Board (by e-mail, telephone, or in writing) of any apparent errors, in order that any necessary corrections may be made. (E-mail address: psb.clerk@state.vt.us)